

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:19-ct-03190-BO

KENNETH RAY JENKINS,

Plaintiff,

v.

WILSON COUNTY JAIL, EDGECOMBE
COUNTY JAIL, SHERIFF CALVIN
WOODARD,

Defendants.

ANSWER OF DEFENDANT
SHERIFF CALVIN WOODARD

NOW COMES Defendant Sheriff Calvin Woodard, by and through counsel, and, responding to the allegations in the Amended Complaint, answers as follows:

I. COMPLAINT

It is admitted that Plaintiff purports to invoke the jurisdiction of this court to bring a claim or claims under 42 U.S.C. § 1983; however, it is denied that Plaintiff is entitled to any relief in this action. Except as herein admitted, the allegations of Paragraph I are denied.

II. PLAINTIFF INFORMATION

It is admitted that the plaintiff is Kenneth Ray Jenkins. The answering defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations regarding Plaintiff's current address, and the same are consequently denied. Except as herein admitted, the allegations of Paragraph II are denied.

III. PRISONER STATUS

The answering defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph III, and the same are consequently denied.

IV. DEFENDANTS INFORMATION

It is admitted that Sheriff Calvin Woodard was named as a defendant in this case. Except as herein admitted, the allegations of Paragraph IV are denied.

V. STATEMENT OF CLAIM

The allegations in paragraph V, including all subparts, are denied. Except as herein admitted, the allegations of Paragraph V are denied.

VI. ADMINISTRATIVE PROCEDURES

The answering defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph VI, and the same are consequently denied.

VII. RELIEF

It is denied that Plaintiff is entitled to any relief from the defendant in this matter.

VIII. PRISONER'S LITIGATION HISTORY

The answering defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph VIII, and the same are consequently denied.

IX. PLAINTIFF'S DECLARATION AND WARNING

The allegations in Paragraph IX are denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Some or all of Plaintiff's claims against the answering defendant are barred by sovereign and/or governmental immunity, qualified immunity, and public officer's immunity. These immunities, and all other applicable immunities, are pled affirmatively as a bar to Plaintiff's claims.

Second Affirmative Defense

Plaintiff's claims are barred by the failure to exhaust administrative remedies under the Prison Litigation Reform Act. This is pled as an absolute bar to Plaintiff's lawsuit.

Third Affirmative Defense

The answering defendant pleads contributory negligence as an affirmative defense and a complete bar to Plaintiff's claims.

Fourth Affirmative Defense

Defendant pleads insufficiency of process and insufficiency of service of process as affirmative defenses pursuant to Rules 12(b)(4) and 12(b)(5) of the Rules of Civil Procedure.

Further Affirmative Defenses

The answering defendant reserves the right to assert such other affirmative defenses as may become available during the course of this litigation.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, defendant Calvin Woodard respectfully requests that Plaintiff have and recover nothing; that the relief sought by the Plaintiff be denied; that the Plaintiff's Complaint be dismissed with prejudice; that all triable issues be tried by a jury; and for other such relief as this Court deems just, equitable, and proper.

Respectfully submitted, this the 9th day of November, 2020.

/s/ Thomas M. Wilmoth
Thomas M. Wilmoth
N.C. State Bar No. 41684
Womble Bond Dickinson (US) LLP
One West Fourth Street
Winston-Salem, NC 27101
Telephone: 336-747-4706
Facsimile: 336-726-6906
E-mail: Tom.Wilmoth@wbd-us.com

Attorney for Defendant Sheriff Calvin Woodard

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 9, 2020, he electronically filed the foregoing Answer of Defendant Sheriff Calvin Woodard with the Clerk of Court using the CM/ECF system.

It is further certified that on November 9, 2020, a copy of the foregoing Answer of Defendant Sheriff Calvin Woodard was sent to the following non-CM/ECF participant via United States First-Class Mail at his last known address, such address being identified by the Court as his address of record:

Kenneth Ray Jenkins
Prisoner ID: 0569762
Southern Correctional Institution
272 Glen Road
Troy, NC 27371

Pro se Plaintiff

/s/ Thomas M. Wilmoth
Thomas M. Wilmoth
N.C. State Bar No. 41684
Womble Bond Dickinson (US) LLP
One West Fourth Street
Winston-Salem, NC 27101
Telephone: 336-747-4706
Facsimile: 336-726-6906
E-mail: Tom.Wilmoth@wbd-us.com

Attorney for Defendant Sheriff Calvin Woodard